IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2947 OF 1993

Prakash J. Chauhan & anr. ...Applicants.

V/s

The State of Maharashtra ...Respondent.

Mr. C. U. Singh with Mr. S.R. Pandey for the applicants.

Mr. Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 17th January, 2006

P.C.:

1. Heard the learned Counsel for the applicants and

the learned APP for the State.

2. The applicants are directors of the Company which is incorporated under the provisions of the Companies Act, 1956. The complaint was filed by the Inspector against the present applicants under the provisions of Prevention of Food Adulteration Act and the process was issued by the Chief Judicial Magistrate, Alibag, District Raigad. Thereafter, the learned Magistrate also issued non-bailable warrants against the applicants and observed that the presence of the

present applicants was essential for the purpose of recording their plea. The learned Counsel appearing on behalf of the applicants submits that in view of the judgment of this Court, he has an alternative remedy to file Revision Application against the order of issuance of process in the Sessions Court and, therefore, he reserves his right to file Revision Application. He, however, submits that non-bailable warrants which are issued by the Magistrate may be cancelled as the applicants were appearing through their advocate and the presence of the the applicants was not necessary. In my view, the order of issuance of non-bailable warrants is liable to be quashed as the applicants had appeared through their counsel. The non-bailable warrants which were issued by the learned Magistrate against the applicants are hereby quashed. Liberty is granted to the applicants to challenge the order of issuance of process by filing Revision Application in the Sessions Court and the stay granted by this Court to continue for a period of six weeks.

3. Criminal Application is disposed of in the above terms.

V.M. KANADE, J.